



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Mr. Kumar Kishinchand
Water Commissioner
City of Philadelphia Water Department
One Reading Center
1101 Market Street
Philadelphia, PA 19107

AUG 12 1998

Re: Final Audit for Construction Grant Numbers
C-420786-01 thru 08
Audit Report Number P2BWN3-03-0077-4300032

Dear Mr. Kishinchand:

The final audit of the referenced project has been completed. A copy of this report was previously sent to you. We have carefully reviewed the findings of the audit and have determined the eligible costs.

The eligible cost for Basic Grants C-420786-01 through 08 is \$271,454,930 with the Federal share totaling \$203,591,193. Since Federal payments total \$195,296,153, an additional Federal grant payment of \$8,295,040 is due to meet the Federal share. A Statement of Costs is enclosed.

The eligible Federal share for Supplemental Grants C-420786-01 thru 07 is \$10,897,451. Since Federal payments total \$10,194,429, an additional Federal grant payment of \$703,022 is due to meet the Federal share. A Statement of Costs is enclosed. The total amount owed to the city for the thirteen grants is \$8,998,062.

A check for \$8,998,062 will be issued by the Treasury shortly. Accordingly, we will proceed to amend the grants and close out the projects.

In accordance with Subpart L of 40 CFR Part 30, this final decision constitutes the final Agency action unless you file a request for review by registered mail, return receipt requested within 30 calendar days of the date of the decision. If you wish a request for a review, you must send (in triplicate) a concise statement of your objections to the final decision, a description of the issues involved, a statement of the amount in dispute and a copy of this letter to:

Regional Administrator
U.S. Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103-2029
Attention: Disputes Official (3PM70)

Your cooperation in completing this project is greatly appreciated. If you have any questions on this matter, please contact Mr. John Bocelli at (215) 814-5396.

Sincerely,



William T. Wisniewski
Assistant Regional Administrator
for Policy and Management

Enclosure

cc: Peter Slack, PADEP

**City of Philadelphia Water Department
Grant Number C-420786**

Summary Statement of Costs

<u>Base Grant</u>	<u>Claimed</u>	<u>Eligible</u>	<u>Ineligible</u>	<u>Exhibit</u>
C-420786-01	\$167,300,266	\$158,264,200	\$ 9,036,066	A
C-420786-02	17,738,971	16,658,913	1,080,058	B
C-420786-03	13,565,163	9,578,188	3,986,975	D
C-420786-04	20,370,936	18,415,941	1,954,995	F
C-420786-05**	2,000,594	1,764,300	236,294	H
C-420786-06	29,803,035	27,383,800	2,419,235	I
C-420786-07	39,341,399	37,313,388	2,028,011	K
C-420786-08	<u>1,697,583</u>	<u>2,076,200</u>	<u>(378,617)</u>	M
Total	\$291,817,947 =====	\$271,454,930	\$20,363,017 =====	
Federal Share @ 75%		203,591,193		
**Limited to Grant awards				
Cumulative Payments		<u>195,296,153</u>		
Balance Due PWD		\$ 8,295,040 =====		

**City of Philadelphia Water Department
Grant Number C-420786**

Summary Statement of Costs

<u>Supplemental Grant</u>	<u>Claimed</u>	<u>Eligible</u>	<u>Ineligible</u>	<u>Exhibit</u>
C-420786-02	\$ 1,773,896	\$ 1,665,891	\$ 108,005	C
C-420786-03	1,356,516	920,250	436,266	E
C-420786-04	2,037,091	1,841,591	195,500	G
C-420786-06	2,980,302	2,738,380	241,922	J
C-420786-07	<u>3,934,140</u>	<u>3,731,339</u>	<u>202,801</u>	L
Total Federal Share	\$12,081,945	\$10,897,451	\$1,184,494	
Cumulative Payments		<u>10,194,429</u>		
Balance Due PWD		<u>\$ 703,022</u>		

EXHIBIT A

Philadelphia Water Department Grant No. C-420786-01

Statement of Costs

<u>Cost Category</u>	<u>Claimed</u>	<u>Eligible</u>	<u>Ineligible</u>	<u>Notes</u>
Architectural Engineering (AE)				
Basic Fees	\$ 12,875,852	\$ 12,555,837	\$ 320,015	1
Other AE Fees	6,316,761	5,476,056	840,705	2
Force Account	5,494,089	4,518,415	975,674	3
Construction	133,869,003	130,531,671	3,337,332	4
Indirect Cost	8,744,561	6,628,912	2,115,649	5
Costs in Excess of Grant Award Ceiling	<u>-0-</u>	<u>(1,446,691)</u>	<u>1,446,691</u>	6
Total	<u>\$167,300,266</u> =====	<u>\$158,264,200</u> =====	<u>\$9,036,066</u> =====	
Federal Share @ 75%		\$118,698,150		
Cumulative EPA Payments through April 7, 1998		<u>111,612,200</u>		
Balance Due PWD		<u>\$ 7,085,950</u> =====		

NOTE 1: We have determined \$320,015 in basic architectural fees ineligible as follows:

- a. The city claimed design fees which exceeded the allowable limitation established by PADEP for engineering Contract P#324 by \$193,240. These excess costs are considered outside the approved project scope and thus ineligible.

Ineligible Costs \$193,240

- b. In their report the auditors identified \$159,443 ineligible because the costs represented design fees which exceeded the allowable ceiling cited above for Contract P#324. However, our review has disclosed that these costs are not associated with the ceiling limitation. Thus, we have determined it is not appropriate to identify these costs as ineligible.

Ineligible Costs -0-

- c. We have determined \$115,022 ineligible because the city incurred the costs as multiplier fees but reclassified them to cost plus fixed fees. Since these fees were based on the multiplier method of compensation, they are subject to the allowable limitation established by PADEP for Contract P#324. Thus, the costs are considered outside the project scope and ineligible.

Ineligible Costs 115,022

- d. We applied the "as bid" and "as built" factors to the allowable design and construction management costs and identified \$11,753 ineligible.

Ineligible Costs 11,753

- e. In their report the auditors identified \$1,139,237 as unsupported because the auditors believed the costs represented the engineer's redesign efforts. However, we believe the work represents eligible work incorrectly identified by the engineer as redesign. Thus, we have determined it is not appropriate to identify these costs as ineligible.

Ineligible Costs -0-

Total Ineligible Costs \$320,015

=====

NOTE 2: We have determined \$840,705 in other engineering fees ineligible as follows:

- a. The city claimed \$660,542 in costs not allocable to the Southwest treatment plant and submitted a duplicate claim of \$14,127 for the same services. Since these costs (\$674,669) were not beneficial to the approved project scope, we have determined that \$674,669 is ineligible.

Ineligible Costs \$674,669

- b. The city incorrectly applied an 97.2 percent eligibility factor to \$3.5 million of infiltration inflow (I&I) analysis costs when they should have applied a 96.84 percent plant wide eligibility factor to the allowable services exclusive of I&I. We have applied the plant wide factor to the allowable base cost and have calculated that the city understated the eligible costs claimed by \$106,471. Accordingly, we have made the adjustment and determined \$106,471 eligible.

Ineligible Costs (106,471)

- c. We have determined \$272,507 ineligible because the city claimed engineering services based on Contract P#431, #463 and #586, even though the contracts were not approved by EPA or PADEP.

In their report the auditors identified \$1,849,152 as unsupported because the auditors believed the services for 21 different contracts were not approved. However, our review has disclosed that 18 contracts valued at \$1,576,645 includes services allowable by EPA. Accordingly, we have made the adjustment and have determined \$1,576,645 eligible and \$272,507 ineligible.

Ineligible Costs 272,507

Total Ineligible Costs \$840,705

=====

NOTE 3: We have determined force account costs of \$975,674 ineligible as follows:

- a. The city incurred \$781,311 of inspection after the latest approved contract completion dates. Accordingly, we have determined that these costs are outside the approved project and thus ineligible.

Ineligible Costs \$781,311

- b. The city claimed \$87,505 of inspection after EPA's and PADEP's latest approved contract completion dates. Accordingly, we have determined that these costs are outside the approved project scope and thus ineligible.

Ineligible Costs 87,505

- c. The city claimed the same services under this grant twice. The value of this duplicate claim was \$6,193. Accordingly, we have determined that \$6,193 was not beneficial to the approved project scope and thus ineligible.

Ineligible Costs 6,193

- d. The city's claim understates the eligible costs for the Water Pollution Abatement Program (WPAP) by \$20,391. Accordingly, we have made the adjustment and have determined \$20,391 eligible.

Ineligible Costs (20,391)

- e. We have applied the "as bid" and "as built" factors to the allowable design and construction management force account and identified \$108,863 as not being beneficial to the approved project scope. Accordingly, we have determined that \$108,863 is ineligible.

Ineligible Costs 108,863

- f. In their report the auditors identified \$1,729,026 as unsupported because the city claimed the costs both as a direct charge and an indirect charge. However, subsequent to the audit, the city eliminated these costs from the indirect cost pool and has claimed the costs only as a direct charge. Accordingly, we have determined it is not appropriate to identify \$1,729,026 ineligible as a direct charge.

Ineligible Costs -0-

- g. We have determined \$12,193 ineligible because the WPAP costs were incurred subsequent to the project cutoff date and thus were incurred outside the approved project scope.

In their report the auditors identified \$1,062,013 as unsupported because the auditors believe the services were associated with inspection beyond the approved contract completion dates. However, our review has disclosed that \$1,049,820 represented allowable project closeout services (startup, testing and performance certification) performed within the September 17, 1991 project cutoff date. Thus, we have determined that \$1,049,820 is eligible and \$12,193 is ineligible.

Ineligible Costs 12,193
Total Ineligible Costs \$ 975,674
=====

NOTE 4: We have determined ineligible \$3,337,332 of construction costs as follows:

- a. The city claimed \$523,453 of change orders declared ineligible by PADEP. We consider such costs as outside the approved project scope and thus ineligible.

Ineligible Costs \$ 523,453

- b. The city claimed \$1,205,391 for equipment items which either are not operational or have been abandoned. Such costs which are not beneficial to the approved project scope are ineligible.

In their report the auditors identified \$1,745,116 ineligible. However, subsequent to the audit, items valued at \$539,725 were either placed into service or replaced in kind by another item which functioned. In addition, we found that the city complied with its responsibilities to remove the Cannonball House from the plant site. Thus, we have determined that \$539,725 is allowable and \$1,205,391 is ineligible.

Ineligible Costs 1,205,391

- c. In their report the auditors identified \$89,615 ineligible and \$552 unsupported because the city did not award Contracts #460, #479, #480 to the lowest bidders within 60 days and the city claimed additional costs totaling \$90,167 associated with these contracts. However, our review of circumstances disclosed that no additional costs was incurred on Contract #460 and the city on Contracts #479 and #480 received EPA's approval to award the contracts to the second low bidder on March 5, 1978, and May 16, 1978. Thus, we have determined it is not appropriate to identify \$90,167 as ineligible (\$89,615 + \$552).

Ineligible Costs -0-

- d. The city claimed additional costs for Contract #475 because of contractor delays experienced on Contract #476. PADEP by letter dated March 7, 1984 notified the city that the \$77,833 was not recoverable from the project. Thus, we have determined that the costs are outside the approved project scope or ineligible.

Ineligible Costs 77,833

- e. The city claimed additional Contract #476 costs of \$68,196 because the original contractor defaulted and the city had to pay these additional costs to obtain a second contractor to perform the work. We have limited the contract costs to \$88,617 or the approved project scope and the \$68,196 in additional costs would be considered outside the approved project scope or ineligible.

Ineligible Costs 68,196

- f. In their report the auditors identified \$666,936 as unsupported because the city delayed bidding during 1976 on several projects and experienced higher bids than would have occurred if there was no delays. However, our review has found the delays were unavoidable and that the city took the proper course of action. Thus, we have determined it is not appropriate to identify \$666,936 as ineligible

Ineligible Costs -0-

- g. In their report the auditors identified as unnecessary \$55,407 for the perimeter fence poured in concrete. However, our review has disclosed that this work was necessary and beneficial to the approved project scope. Thus, we have determined it is not appropriate to identify \$55,407 as ineligible.

Ineligible Costs -0-

- h. In their report the auditors identified \$77,464 as unnecessary because since the city did not perform a cost or price analysis for Change Order #40 to Contract #506, the auditors believed the city might have been billed \$77,464 in excess for backfill. However, our review has disclosed that this additional work was necessary and that EPA approved the additional work based on bid unit prices for backfill. Thus, we have determined it is not appropriate to identify these costs as ineligible.

Ineligible Costs -0-

- i. We have determined \$788,589 ineligible because the city could not document with approved change orders the additional costs from construction cost overruns.

In the report the auditors identified \$2,049,763 as unsupported, but subsequent to the audit, PADEP approved Change Order #8 to Contract #5D453-SW and its final quantities adjustment. The value of this Change Order was \$1,261,174. Thus, we have determined that \$1,261,174 is eligible and \$788,589 remains ineligible.

Ineligible Costs 788,589

- j. The city claimed \$423,870 for equipment items which either are not operational or have been abandoned. Such costs which are not beneficial to the approved project scope are ineligible.

In their report the auditors identified \$1,360,540 unsupported for seven equipment items. However, subsequent to the audit, four items valued at \$936,670 were either replaced in kind by another device which functioned or placed into service. Thus, we have determined that \$936,670 is allowable and \$423,870 is ineligible.

Ineligible Costs 423,870

- k. We have determined \$250,000 ineligible based on the Army Corps of Engineers' inspection reports which disclosed a myriad of construction deficiencies not identified previously. The estimated costs for these deficiencies were \$250,000, and the city agreed that the estimate appears reasonable for claimed items. Since these items are not beneficial to the approved project scope, we have determined that \$250,000 is ineligible.

Ineligible Costs 250,000
Total Ineligible Costs \$3,337,332
=====

NOTE 5: The grantee claimed ineligible costs of \$2,115,649 by applying unapproved indirect rates and including ineligible costs in the base. Accordingly, we have made the adjustment and determined \$2,115,649 ineligible.

In their report the auditors identified \$8,744,561 as either ineligible, unsupported, or unnecessary. However, we have applied the approved indirect rates and the post 1989 proposed rates to the allowable base costs and identified \$6,628,912 as eligible and \$2,115,649 as ineligible. In addition, a grant amendment incorporating the indirect cost provision was processed.

Total Ineligible Costs \$2,115,649

=====

NOTE 6: These costs are ineligible because the grantee's claim has exceeded the grant ceiling. In accordance with 40 CFR §30.705, costs are allowable if the costs are in conformity with the limitation set forth in the grant agreement. It should be noted, however, that \$1,446,691 can become allowable and eligible if additional federal funds become available.

Total Ineligible Costs \$1,446,691

=====